

**REMARKS**

Claims 1, 3-6, 8-10, 15, 21, and 22 are all the claims pending in the application.

Claims 1, 3, and 5 have been rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as allegedly obvious over Nasu et al., U.S. Patent No. 4,995,898 ("Nasu '898).

Nasu '898 discloses a combination of an imidazole compound with an "organic phosphorus compound," but Nasu '898 does not disclose a combination of an imidazole compound with an "inorganic phosphorus compound" (col. 46, lines 14-24). Further, in Formulation Example 7 in Nasu '898 (the Example cited by the Examiner), the lower alcohol phosphate used is an "organic phosphorus compound" (Nasu '898, col. 60, lines 15-24). Accordingly, the subject matter of claims 1, 3, and 5 are not disclosed in Nasu '898.

In addition, the lower alcohol phosphate is a partial esterificated compound of lower alcohol with phosphoric acid, for example, dimethyl phosphoric acid, diethyl phosphoric acid, monomethyl phosphoric acid, and monoethyl phosphoric acid. JP-B-38-24900 (November 22, 1963), which was published 25 years before the filing of Nasu '898, discloses the use of 0.5% lower alcohol phosphate for improving the flowability of dusting powder for agricultural chemicals. A copy of JP-B-38-24900 and a partial sworn English translation are attached herewith.

In Formulation Example 7 in Nasu '898, the formulation was carried out using the generally used formulation in order to prepare flowability-improved dusting powder from the imidazole compound. If the lower alcohol phosphate is used for the generally used formulation,

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one of ordinary skill in the art would not have been motivated to replace it with an inorganic phosphate. Accordingly, the subject matter of claims 1, 3 and 5 is not obvious over Nasu '898.

Applicants thereby respectfully request that the Examiner withdraw the § 102(b) rejection or, in the alternative, the § 103(a) of claims 1, 3, and 5 over Nasu '898.

Claims 1, 3, and 5 have been rejected under 35 U.S.C. § 103 as allegedly being obvious over Nasu et al., EP 0337103 ("Nasu '103), in view of Nasu et al., U.S. Patent No. 4,995,898 ("Nasu '898) and Thizy et al., U.S. Patent no. 4,075,324.

Please refer to the above discussion with respect to Nasu '898.

Nasu '103 discloses combinations of imidazole compounds that are analogous to Nasu '898, however, only copper compounds (inorganic fungicides) not inorganic phosphates are disclosed.

If the imidazole compound of Nasu '103 is replaced with the imidazole compound of Nasu '898, one of ordinary skill in the art would not have been motivated to replace the copper compound of Nasu '103 with inorganic phosphate of Thizy. Accordingly, the subject matter of claims 1, 3, and 5 is not obvious over Nasu '103 in view of Nasu '898 and Thizy.

Applicants thereby respectfully request that the Examiner withdraw the § 103(a) rejection of claims 1, 3, and 5 over Nasu '103 in view of Nasu '898 and Thizy.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned attorney at the telephone number listed below.

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The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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**23373**

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